

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
FROM THE COMMISSION ON POSTSECONDARY EDUCATION**

In the Matter of)	
)	
F E. X)	OAH No. 15-1318-PFE
_____)	Agency No. 5018257842

DECISION

I. Introduction

The Alaska Commission on Postsecondary Education garnished F X’s 2015 permanent fund dividend to apply against Ms. X’s balance for her defaulted Alaska Student Loan. The Commission sent Ms. X notice of the default in 2007. Therefore, the garnishment is affirmed.

II. Facts

F X obtained an Alaska student loan of \$5,500 in 2001. She defaulted on the loan on February 16, 2007, when the loan became 180 days past due. On February 15, 2007, the Alaska Commission on Postsecondary Education sent a notice to Ms. X that the loan was in default. It sent the notice to the address of record that it had in its files, which was in Brooklyn.¹ Ms. X confirmed by telephone that this was her address of record both before the notice of default was sent (October 23, 2006) and after it was sent (March 13, 2007).²

In 2015, based on the default and the outstanding balance, the Commission garnished Ms. X’s 2015 permanent fund dividend. Ms. X appealed, asserting that she did not receive a notice of default. A telephonic hearing was held on November 12, 2015. Although Ms. X had notice of the hearing, and although her number was called twice, with a message left asking that she phone in for the hearing, Ms. X did not attend the hearing.

III. Discussion

The Commission has legal authority to execute on a student loan borrower’s PFD when the loan is in default.³ Once the Commission has provided proper notification of its claim against an individual’s PFD, that individual has the burden of refuting the Commission’s claim and may only defeat the claim by showing: (1) the Commission did not send a notice of default in compliance with the law, (2) the notice of default has been rescinded, or (3) the amount owed by the borrower is less than the amount claimed from the PFD.⁴

¹ Guthert testimony. Faith Guthert is an Operations Analyst with the Commission.
² Burton testimony. John Burton is a Senior Financial Aid Specialist with the Commission.
³ AS 14.43.145(a); AS 43.23.067.
⁴ AS 43.23.067(c).

Ms. X does not deny that she received a notice of default in 2006, and the Commission's evidence proves that a notice was sent to her correct address of record. It appears that Ms. X was concerned because she did not receive a notice of default in recent years. Also, she argues that she has set up a system for making payments and that she has made a good faith payment toward her outstanding balance. Further, she needs the PFD in order to pay bills and stay on her payment plan.⁵

Yet, under the law, these arguments are not valid reasons for reversing the Commission's garnishment of Ms. X's PFD. Here, because the evidence shows that Ms. X did receive a notice of default, the Commission's garnishment of her 2015 PFD is affirmed.

IV. Conclusion

The Alaska Commission of Postsecondary Education's garnishment of F X's 2015 permanent fund dividend is affirmed.

DATED this 17th day of November, 2015.

By: Signed
Stephen C. Slotnick
Administrative Law Judge

Adoption

I, on behalf of the Alaska Commission on Postsecondary Education and in accordance with AS 44.64.060, adopt this Decision and Order as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 8th day of January, 2016.

By: Signed
Signature
Diane Barrans
Name
Executive Director
Title

[This document has been modified to conform to the technical standards for publication.]

⁵ September 23, 2015, letter from F X.